

1927

c 119 Magistrates Act

Ontario

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CHAPTER 119.

The Magistrates Act.

PART I.

GENERAL PROVISIONS.

Appoint-
ment.

1. The Lieutenant-Governor may by commission issued under the Great Seal pursuant to an Order in Council, appoint police magistrates as hereinafter provided who shall hold office during pleasure. 1926, c. 29, s. 2.

County
judge may
be
appointed.

2. A judge or junior judge of the county or district court may be appointed a police magistrate. 1926, c. 29, s. 3.

Conferring
special
jurisdiction.

3.—(1) The Attorney-General may at any time direct any police magistrate to act in and for any part of Ontario

Limitation
as to time.

(2) Such direction may be limited both as to time and as to the class of cases to be dealt with. 1926, c. 29, s. 4.

Oath.

4.—(1) Every police magistrate and deputy police magistrate before acting shall take the following oath of office,—

I, A. B., of the of in the County (or District) do swear that I will well and truly serve Our Sovereign Lord King George, (or the reigning Sovereign for the time being) in the office of Police Magistrate (or Deputy Police Magistrate, as the case may be) and I will do right to all manner of people according to law, without fear or favour, affection or ill will, So help me God.

A. B.

Sworn, etc.

Rev. Stat.
c. 17.

and also the oath of allegiance as required by *The Public Officers Act*.

Oath to
be filed with
clerk of the
peace.

(2) The oath of office and the oath of allegiance shall forthwith be transmitted or delivered by the police magistrate, or deputy police magistrate to the clerk of the peace of the county or district within which the police magistrate or deputy police magistrate is to act and shall be filed in the office of the clerk of the peace. 1926, c. 29, s. 5.

Ex officio
justice of
the peace.

5. Every police magistrate shall be *ex officio* a justice of the peace for the whole of any county or district for which, or for part of which, he is appointed. 1926, c. 29, s. 6.

6. A police magistrate sitting as such or as *ex officio* a justice of the peace shall have power to do alone whatever is authorized to be done by two or more justices of the peace. 1926, c. 29, s. 7. Powers.

7.—(1) In case of the illness or absence from his territorial jurisdiction of a police magistrate having sole jurisdiction or at his request, any other police magistrate having jurisdiction over any portion of the county or district shall have all the powers and may perform all the duties of the first mentioned police magistrate during such illness or absence or while acting at such request and shall also have jurisdiction and power to continue and complete any proceeding begun before him notwithstanding that the first mentioned police magistrate may have recovered or returned. Jurisdiction of other magistrates in case of illness, absence, etc.

(2) If there is no police magistrate available, any two or more justices of the peace of the county or district, may act in any matter which may be tried by two justices of the peace and one justice of the peace may act where one justice of the peace has jurisdiction. 1926, c. 29, s. 8. When two or more justices may act.

8.—(1) Save as provided in the preceding section and in subsection 2 hereof, a justice of the peace shall not act in any case arising within the territorial jurisdiction of a police magistrate. When justices may not act.

(2) Any justice of the peace acting within his territorial jurisdiction may take an information or issue a search warrant or a summons or warrant returnable before a police magistrate having jurisdiction to try the case, and may hear and determine a prosecution under a by-law of any municipality. 1926, c. 29, s. 9. Justice may take information, issue warrant, etc.

9. Except in case of urgent necessity a police magistrate shall not be required to attend at the police office on a holiday or on any day set apart by the municipal council as a civic holiday. 1926, c. 29, s. 10. Attendance on holidays not required

10.—(1) A police magistrate shall not act as agent, solicitor or counsel in any cause, matter, prosecution or proceeding before a police magistrate or justice of the peace, and no partner or clerk of a police magistrate shall act as agent, solicitor or counsel in any proceeding before him. Prohibition as to practising in magistrates' courts.

(2) Unless otherwise provided by order in council a police magistrate appointed under this Act shall not practise any profession or actively engage in any business, trade or occupation but shall devote his whole time to the performance of his duties as police magistrate. 1926, c. 29, s. 11. Not to engage in any other occupation without permission

Collection
of fees.

11.—(1) A police magistrate shall be entitled to collect the same fees and emoluments as a justice of the peace, and where a police magistrate is paid by salary, the fees and emoluments received by him as police magistrate shall be paid to the municipality if the salary is provided by such municipality, but if the salary is provided by the Crown such fees and emoluments shall be paid to the Treasurer of Ontario.

(2) A police magistrate who is paid by salary shall not direct any officer or constable in the employ of the Provincial Government to pay any fees to him in respect of a case or complaint prosecuted by such officer or constable. 1926, c. 29, s. 12.

Returns.

12.—(1) Every police magistrate shall make such returns to the clerk of the peace, the Inspector of Legal Offices and to such other municipal or other provincial officers as the regulations may direct.

Application
of Act.

Rev. Stat.
c. 118.

(2) With the exception of section 23, Parts II and III of *The Justices of the Peace Act* shall not apply to police magistrates.

Fees of
clerk of
the peace.

(3) The clerk of the peace shall be entitled to the same fees for any services performed in respect to returns made by police magistrates as in the case of returns made by justices of the peace. 1926, c. 29, s. 13.

Regula-
tions.

13.—(1) The Lieutenant-Governor in Council may make regulations,—

- (a) prescribing the office hours of police magistrates;
- (b) fixing the period and manner in which fines, fees and emoluments payable to the Treasurer of Ontario under this or any other Act shall be paid over by police magistrates;
- (c) providing for the inspection of the office, the books and accounts of police magistrates and for the appointment of an inspector for that purpose and defining the powers and duties of such inspector;
- (d) providing for the appointment or employment of a stenographic reporter to take down evidence before a police magistrate and fixing the remuneration of such reporter and the fees and charges for his services and for defining the class of cases in which stenographic reporters may be employed and the terms and conditions of such employment, and such regulations may provide that the remuneration of the stenographic reporter shall be paid by the municipal corporation or by the parties to any proceeding before the magistrate as part of the

costs in the case or partly by one method and partly by the other, and where the remuneration is made payable by the municipal corporation, the regulations may provide for the allowance of a charge for stenographic reporting as a part of the costs in any case in which a stenographic report of the proceedings has been taken;

(e) respecting the returns to be made by police magistrates;

(f) generally for the better carrying out of the provisions of this Act.

(2) Any such regulation may be general or particular in its application and may provide for the imposing of penalties for breach of the regulations and the recovery of such penalties under *The Summary Convictions Act* or in such other manner as the Lieutenant-Governor in Council may prescribe. 1926, c. 29, s. 14.

Regulations
general or
particular.
Rev. Stat.
c. 121.
Penalties.

14. The board of commissioners of police of any city having a population of not less than fifty thousand may appoint one or more official interpreters to act in all cases coming before any police magistrate of such city in which the services of an interpreter may be required, and any such interpreter or interpreters may be paid such salary or other remuneration as may be fixed by the board, and such salary or remuneration shall be paid by the board out of any moneys appropriated for that purpose by the council of such city. 1926, c. 29, s. 15.

Appoint-
ment of
interpre-
ters in cities.

PART II.

POLICE MAGISTRATES IN CITIES AND TOWNS.

15.—(1) There shall be a salaried police magistrate for every city and for every town having a population of five thousand or over.

To be
appointed
with salary
for cities
and certain
towns.

(2) Where the council of a town having a population of less than five thousand, by resolution passed by a vote of two-thirds of all the members of the council, affirms that it is expedient that a salaried police magistrate be appointed for the town and names the amount of the salary to be paid, the Lieutenant-Governor in Council may appoint a salaried police magistrate for the town accordingly. 1926, c. 29, s. 16.

In other
towns.

16. In estimating the population of a city or town the last Dominion census shall govern unless there has been a subsequent enumeration by the assessors of the city or town in which case such enumeration shall govern. 1926, c. 29, s. 17.

Population
how deter-
mined.

Authority for appointment not to be questioned as to population.

17. Where the authority of the Lieutenant-Governor in Council to appoint a police magistrate or deputy police magistrate depends upon the population of the city, town or place for which the appointment is to be made, no appointment purporting to be made under the authority of this Act shall be open to question on the ground that the population was not in fact such as to authorize the making of the appointment. 1926, c. 29, s. 18.

Rate of salary.

18. Notwithstanding anything in any general or special Act contained and except as otherwise provided herein every police magistrate appointed under the provisions of subsection 1 of section 15 shall be paid a salary,—

- (a) except as provided in section 28, in a city having a population of eighty thousand or over not less than \$4,500 per annum;
- (b) in a city having a population of more than forty thousand and less than eighty thousand, not less than \$3,600 per annum;
- (c) in a city having a population of more than eighteen thousand and less than forty thousand, not less than \$2,400 per annum;
- (d) in a city or town having a population of more than eight thousand and less than eighteen thousand, not less than \$1,500 per annum;
- (e) in a town having a population of more than six thousand and less than eight thousand, not less than \$1,200 per annum;
- (f) in a town having a population of five thousand and less than six thousand, not less than \$900 per annum;

provided, however, that nothing in this section contained shall apply to the police magistrate of the City of Kingston now in office. 1926, c. 29, s. 19.

Payment to be monthly.

19. The salary of every police magistrate shall be paid by the corporation of the city or town at least monthly and shall be apportionable to the date of the death of the magistrate or of his vacating his office. 1926, c. 29, s. 20.

Not to be reduced without authority.

20. A municipal council shall not reduce the salary of a police magistrate or deputy police magistrate without the sanction of the Lieutenant-Governor in Council. 1926, c. 29, s. 21.

21.—(1) The Lieutenant-Governor in Council may ap- Where council requests appointment.
point an additional police magistrate or police magistrates
for any city if a resolution confirming the expediency of such
appointment is passed by a vote of two-thirds of all the mem-
bers of the council.

(2) The salary of such police magistrate, or magistrates Salaries.
where the resolution provides that the appointment shall be
made with salary, shall be paid at a rate determined by the
council and approved by the Lieutenant-Governor in Council.
1926, c. 29, s. 22.

22. Where there are more police magistrates than one, a Division of
division of their duties may be made by the Lieutenant-Gov- duties.
ernor in Council. 1926, c. 29 s. 23.

23.—(1) Where the council of a city having a population Appoint-
of one hundred thousand or over by resolution declares that ment of
it is desirable that a woman should be appointed to be a police female
magistrate or deputy police magistrate for such city, the police
Lieutenant-Governor in Council may appoint a woman to be magistrate.
a police magistrate or deputy police magistrate accordingly
and where there are more police magistrates than one for any
city the appointment may be in addition to any police magis-
trate then in office or to fill an existing vacancy among the
magistrates.

(2) Nothing in this section shall be construed as a declara- Power to
tion that women were at the time of the enactment of this appoint.
section ineligible for appointment to the office of police magis-
trate. 1926, c. 29, s. 24.

24.—(1) Where in the opinion of the Lieutenant-Gover- Deputy
nor in Council the due administration of justice requires the police
appointment of a deputy police magistrate for a city or for magistrates.
a town having a population of not less than five thousand he
may appoint a deputy police magistrate accordingly who shall
hold office during pleasure and the municipal council may if it
sees fit, provide for payment to him of a salary.

(2) The appointment may be made notwithstanding that Appoint-
the office of police magistrate is vacant. 1926, c. 29, s. 25. ment during
vacancy.

25. The deputy police magistrate shall have authority to Powers and
perform all the duties of and incidental to the office of police duties.
magistrate and the provisions of section 11 and of subsection
1 of section 7 shall apply to him. 1926, c. 29, s. 26.

26. The judge of the juvenile court of a city shall be Judge of
ex officio a police magistrate, and subject to the direction of juvenile
the Attorney General may act as a police magistrate appointed court to be
for the city under this Part. 1926, c. 29, s. 27. *ex officio*
police
magistrate.

Superannuation.

27. Where the police magistrate of a city or town has attained the age of seventy years the council of the city or town may by by-law provide for the payment to such police magistrate during his life-time of an annual sum by way of superannuation allowance. 1926, c. 29, s. 28.

SPECIAL PROVISIONS AS TO CITY OF TORONTO.

Police magistrates for the City of Toronto.

28. The Lieutenant-Governor in Council may appoint four police magistrates for the City of Toronto and, notwithstanding the provisions of section 18, may fix the salaries to be paid to such magistrates. 1926, c. 29, s. 29.

Senior magistrate in City of Toronto.

29. One of the police magistrates for the City of Toronto may be designated senior magistrate for the City of Toronto. 1926, c. 29, s. 30.

Additional police magistrate in City of Toronto.

30. An additional police magistrate or police magistrates may be appointed for the City of Toronto as provided in section 21. 1926, c. 29, s. 31.

Duties and powers of senior magistrate.

31. The senior magistrate for the City of Toronto shall have power,—

- (a) to designate the courts to be held by such police magistrates according to the classes of cases to be dealt with in such courts respectively;
- (b) to allocate to each of such courts the classes of cases which shall be dealt with therein;
- (c) to assign to each of such courts one or more police magistrates;
- (d) to determine from time to time all matters of difference which may arise as to the proper court in which any particular case shall be dealt with;
- (e) to investigate all complaints which may arise as to the conduct of the police magistrates or any of them or any of the officers employed in connection with such courts;
- (f) to give such directions from time to time as he may deem desirable for the better conduct of the business of such courts;
- (g) to arrange for the sittings of such courts and to fix the time and place at which such sittings may be held;
- (h) to see that the returns required by any statute or regulation from police magistrates are duly made. 1926, c. 29, s. 32.

PART III.

32. The Lieutenant-Governor in Council may appoint one or more police magistrates for any municipality, or for any number of adjacent municipalities or for any provisional judicial district or districts or any part or parts thereof or for any municipality or municipalities and territory without municipal organization. 1926, c. 29, s. 33. Appointments with extended jurisdiction.

33.—(1) The Lieutenant-Governor in Council may appoint a deputy police magistrate for any county or district, and such appointment may be made notwithstanding that the office of police magistrate is vacant. Deputy police magistrates in counties.

(2) The provisions of section 25 shall apply to any deputy police magistrate appointed under this section. 1927, c. 28, s. 40. Powers and duties.

34.—(1) Every police magistrate appointed under this Part may be paid an annual salary to be fixed by the Lieutenant-Governor in Council and such salary and all other expenses of the office shall be payable out of such sums as may be appropriated by the Legislature from time to time for the payment of salaries and expenses of police magistrates. Salaries.

(2) All accounts relating to salaries and expenses under subsection 1 shall be audited as provided in section 16 of *The Administration of Justice Expenses Act*. 1926, c. 29, s. 34. Audit of accounts. Rev. Stat. c. 126.

35. It shall not be necessary for a police magistrate appointed under this Part to be actually resident within the territory for which he is appointed. 1926, c. 29, s. 35. Need not reside in jurisdiction.

36.—(1) A police magistrate appointed under this Part may sit or hold his court in any town or city within the limits of a county or district any part of which is within his territorial jurisdiction, whether such town or city is or is not excluded from his jurisdiction. Power to hold court, etc., in city or town.

(2) A police magistrate appointed under this Part shall have the right to use any court room or town hall belonging to a county or municipality in which he may sit or hold his court, but in so using a court room or town hall he shall not interfere with the ordinary use of the court room for the other courts or with the use of the town hall for the purposes for which the same is maintained. Use of court room or hall.

(3) Where a police magistrate sits or holds his court in a court room or town hall belonging to a municipality for the trial of an offence committed outside the limits of such municipality, the municipality owning such court room or town hall shall be paid by the municipality within whose territory the offence was committed remuneration for the use of the Where court room or hall in municipality other than that in which offence committed.

court room or town hall and in the event of controversy as to the proper amount of such remuneration, the same shall be determined by the inspector appointed under this Act. 1926, c. 29, s. 36.

Offices and
court
rooms.

37.—(1) Where a police magistrate is appointed with jurisdiction over a county, it shall be the duty of the corporation of the county to provide a suitable office, furniture, stationery and other accommodation for the police magistrate, in accordance with the regulations made under this Part.

In provi-
sional judi-
cial district.

(2) Where a police magistrate is appointed for a provisional judicial district the Lieutenant-Governor in Council may authorize the purchase, erection or rental of a suitable building or part of a building for the office of such police magistrate. 1926, c. 29, s. 37.

Regulations.

38. The Lieutenant-Governor in Council may make regulations with respect to police magistrates appointed under this Part,—

- (a) with reference to the appointment of clerical and other assistants of a police magistrate, prescribing their duties and fixing their salary or other remuneration ;
 - (b) prescribing the equipment, arrangement and furnishings of police magistrates offices ;
 - (c) generally for the better carrying out of the provisions of this Part. 1926, c. 29, s. 38.
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